

**§ 12.36 Subpoenas to compel discovery.**

An application for a subpoena requiring a party or non-party to comply with a discovery order issued pursuant to §§ 12.31 and 12.32, may be made, in writing, by any party without notice to other parties, and may be filed simultaneously with the motion for the discovery order. The standards for issuance or denial of such an application, the service requirement, and the method for enforcing such subpoenas shall be determined by the provisions of § 12.313 of these rules.

**Subpart C—Rules Applicable to Voluntary Decisional Proceedings****§ 12.100 Scope and applicability of rules.**

(a) *In general.* The rules set forth in this subpart are applicable only to proceedings forwarded pursuant to § 12.26(a) of the Reparation Rules. The rules of subpart B permitting discovery are applicable in a voluntary decisional proceeding. Unless specifically made applicable, the rules prescribed in subparts D, E, and F shall not apply in a voluntary decisional proceeding.

(b) *Waiver by electing the voluntary decisional procedure.* By electing the voluntary decisional procedure, parties waive the opportunity for an oral hearing and whatever rights they may have otherwise had: to receive a written statement of the findings of fact upon which the final decision is based; to prejudgment interest in connection with a reparation award; to appeal to the Commission the final decision; and to appeal the final decision to a U.S. Court of Appeals pursuant to section 14(e) of the Commodity Exchange Act, 7 U.S.C. 18(e).

**§ 12.101 Functions and responsibilities of the Judgment Officer.**

The Judgment Officer shall be responsible for the fair and orderly conduct of the proceeding and shall have the authority:

(a) To rule upon discovery-related motions, and to issue orders pertaining to discovery;

(b) To take such action pursuant to § 12.35 as is appropriate if a party fails to comply with a discovery order;

(c) To issue subpoenas pursuant to § 12.36 of these rules;

(d) To issue orders of default for good cause shown against any party who fails to participate in the proceeding, or to comply with any provisions of these rules;

(e) To receive submissions of proof;

(f) Make the final decision in accordance with § 12.106 of these rules; and

(g) Issue such orders as are necessary and appropriate to effectuate the orderly conduct of the proceeding.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984]

**§ 12.102 Disqualification of Judgment Officer.**

(a) *At his own request.* A Judgment Officer may withdraw from a voluntary decisional proceeding when he considers himself to be disqualified on the grounds of personal bias, conflict of interest, or similar bases. In such event he shall immediately notify the Commission and each of the parties of his withdrawal and of his basis for such action.

(b) *Upon the request of a party.* Any party may request a Judgment Officer to disqualify himself on the grounds of personal bias, conflict of interest, or similar bases. Interlocutory review of an adverse ruling by the Judgment Officer may be sought without certification of the matter by the Judgment Officer only in accordance with the procedures set forth in § 12.309 of the Reparation Rules.

**§ 12.103 Filing of documents; subscription; service.**

Except as otherwise specifically provided in these rules, all documents filed in a voluntary decisional proceeding, including (but not limited to) amended or supplemental pleadings, motions, discovery requests and responses thereto, and submissions of proof, shall meet the requirements of §§ 12.11 and 12.12 of the Reparation Rules as to form, and shall be filed and served in accordance with § 12.10 of the Reparation Rules.

**§ 12.104 Amendments to pleadings; motions.**

(a) *Amendments and supplemental pleadings.* At any time prior to the